

INVOLUNTARY DISCHARGE CRITERIA WORKSHEET (ARM 37.106.2824)

Dear Provider:

This worksheet is provided to guide you through the process of an involuntary discharge using **ARM 37.106.2824**. **IT IS NOT INTENDED TO REPLACE THE FORMAL WRITTEN NOTIFICATION**, rather to assist you in providing required documentation.

A. If the Involuntary Discharge is **due to the facility closing or change of ownership**, please specify the following in a 30-day written notification to the residents and/or responsible parties:

- 1) the closing date, (if less than 30 days please notify local Ombudsman and the Licensure Bureau as soon as possible),
- 2) any financial arrangements and additional information, if applicable,
- 3) release for medical or other recorded information, if needed, and
- 4) how to contact the Local Ombudsman.
- 5) Complete Step 1 below to document notification process.

Please send a copy of the notification to the Licensure Bureau, Attention: Program Manager, 2401 Colonial Drive, 2nd Floor, PO Box 202953, Helena, MT 59620-2953.

B. If the Involuntary Discharge is due to any other circumstance please complete **all of the following four (4) steps** prior to sending a written notice. A sample letter is also provided for your adoption and implementation in initiating an involuntary discharge.

STEP 1.

FILL IN THE FORM AS INDICATED. YOU WILL USE THIS INFORMATION TO DEVELOP YOUR 30-DAY OR EMERGENT WRITTEN NOTICE.

_____ a resident of _____ is to be
(Resident's name) (Facility's name)

given a *30 day/emergent* written notice to move-out on: _____ by: _____
(Circle the appropriate type) (Date) (Time)

_____ (Title) _____
(Name of administrator or designee) (Administrator or designee's title)

The transfer is to be initiated by the: _____
(Resident's physician or practitioner, appropriate agencies, or the resident, resident's legal representative or responsible party)

Notice *was/is to be* mailed by Certified Mail to: _____

OR

Delivered in person/handed to: _____

STEP 2. REASONS

FOR INVOLUNTARY DISCHARGE FROM ARM 37.106.2824 (1) (a-f) and (3) TO BE INCLUDED IN YOUR 30-DAY NOTICE OR EMERGENT NOTICE, IF APPLICABLE:

- ____ (1) (a) the resident's needs exceed the level of ADL services the facility provides;
- ____ (b) the resident exhibits behavior or actions that repeatedly and substantially interferes with the rights, health, safety or well being of other residents and the facility has tried prudent and reasonable interventions;
- (i) documentation of the interventions attempted by the facility shall become part of the resident record;

(Contact or make a referral to the State Ombudsman, local Office on Aging and/or Adult Protective Services, if indicated, as early as possible)

LIST THE INTERVENTION DOCUMENTATION:

____ DATE: _____

____ DATE: _____

____ DATE: _____

(Additional information may be provided on the back of this form.)

- ____ (c) the resident, due to severe cognitive decline, is not able to respond to verbal instructions, recognize danger, make basic care decisions, express needs or summon assistance, except as permitted by ARM 37.106.2884;
- ____ (d) the resident has a medical condition that is complex, unstable or unpredictable and treatment cannot be appropriately developed in the personal care environment;
- ____ (e) the resident has had a significant change in condition that requires medical or psychiatric treatment outside the facility and at the time the resident is to be discharged from that setting to move back into the personal care facility, appropriate facility staff have re-evaluated the resident's needs and have determined the resident's needs exceed the facilities level of service. Temporary absence for medical treatment is not considered a move-out; or
- ____ (f) the resident has failed to pay charges after reasonable and appropriate notice.

LIST THE DOCUMENTATION REQUESTING PAYMENT OF SERVICES:

____ DATE: _____

____ DATE: _____

____ DATE: _____

(Additional information may be provided on the back of this form)

REASONS FOR INVOLUNTARY DISCHARGE LESS THAN 30 DAYS ARE:

- (3) A resident may be involuntarily discharged in less than 30 days for the following reasons:
- ____ (a) if a resident has a medical emergency;
- ____ (b) the resident exhibits behavior that poses an immediate danger to self or others; or
- ____ (c) if the resident has not resided in the facility for 30 days.

****YOUR NOTICE FOR AN INVOLUNTARY DISCHARGE MUST INCLUDE AT LEAST ONE
OF THE ABOVE REASONS.****

STEP 3.

ADDITIONAL REQUIREMENTS TO BE INCLUDED IN THE WRITTEN NOTICE FROM ARM 37.106.2824 (2) (a-d) & (4) (b-d)

WHEN DRAFTING THE 30 DAY WRITTEN NOTICE PLEASE CHECK OFF EACH SPECIFIC ITEM BELOW TO ENSURE INCLUSION IN YOUR NOTIFICATION:

(2) The resident 30 day written move out notice shall, at a minimum, include the following:

- ☐ (a) the reason for transfer or discharge;
- ☐ (b) the effective date of the transfer or discharge;
- ☐ (c) **the location to which the resident is to be transferred or discharged; (Contact or make a referral to the State Ombudsman, local Office on Aging and/or Adult Protective Services, if indicated, as early as possible)**
- ☐ (d) a statement that the resident has the right to appeal the action to the department; and the name, address and telephone number of the state long term care ombudsman.

(4) A resident has a right to a fair hearing to contest an involuntary transfer or discharge.

- ☐ (a) Involuntary transfer or discharge is defined in ARM 37.106.2805.
- ☐ (b) A resident may exercise his or her right to appeal an involuntary transfer or discharge by submitting a written request for fair hearing to the Department of Public Health and Human Services, Office of Fair Hearings, P.O. Box 202953, Helena, MT 59620-2953, within 30 days of notice of transfer or discharge.
- ☐ (c) The parties to a hearing regarding a contested transfer or discharge are the facility and the resident contesting the transfer or discharge. The department is not a party to such a proceeding, and relief may not be granted to either party against the department in a hearing regarding a contested transfer or discharge.
- ☐ (d) Hearings regarding a contested transfer or discharge shall be conducted in accordance with ARM 37.5.304, 37.5.305, 37.5.307, 37.5.313, 37.5.322, 37.5.325 and 37.5.334, and a resident shall be considered a claimant for purposes of these sections.
- ☐ (e) **The request for appeal of a transfer or discharge does not automatically stay the decision of the facility to transfer or discharge the resident.** The hearing officer may, for good cause shown, grant a resident's request to stay the facility's decision pending a hearing.
- ☐ (f) The hearing officer's decision following a hearing shall be the final decision for the purposes of judicial review under ARM 37.5.334.

STEP 4.

ONCE YOU HAVE IDENTIFIED THE KEY COMPONENTS (STEPS 1-3) FOR YOUR WRITTEN NOTIFICATION FOR AN INVOLUNTARY DISCHARGE YOU ARE READY TO DRAFT YOUR NOTICE.

PLEASE SAVE THIS WORKSHEET TO AID IN REVIEWING YOUR FINAL DRAFT PRIOR TO SENDING THE NOTICE.